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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
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Summary record of the 1573rd meeting
Held at the Palais des Nations, Geneva, on Tuesday, 20 February 2018, at 3 p.m.

Chair: Ms. Leinarte

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined third to fifth periodic reports of Malaysia (*continued*)
(CEDAW/C/MYS/3-5; CEDAW/C/MYS/Q/3-5 and CEDAW/C/MYS/Q/3-5/Add.1)

1. *At the invitation of the Chair, the delegation of Malaysia took places at the Committee table.*

Articles 10 to 14

2. **Ms. Gbedemah** said that she wished to know how the high levels of educational attainment among girls in the State party could be explained in the light of the relatively high number of girls who married. She asked how many married children returned to school and whether data were available on the educational attainment of girls who married below the age of 18 and girls who remained in education after becoming pregnant.

3. Noting that reproductive and sexual health education appeared to lack a rights-based perspective, which could be used to address child marriage and issues of power, responsibility and the prevention of pregnancy, she asked whether the Government had plans to incorporate such a perspective in reproductive and sexual health education. The Committee would welcome disaggregated data on the subjects that boys and girls opted to study. In view of the fact that girls were reportedly less likely to study technical subjects than boys, she asked what measures, including temporary special measures, were being taken to encourage girls to study such subjects.

4. Although women teachers were known to outnumber men teachers at the primary education level, it was not clear how many women primary school teachers moved into decision-making roles. The Committee was concerned that male head teachers outnumbered female head teachers at both the primary and secondary education levels. Noting that there were more male than female lecturers at the Institute of Teacher Education, she asked what disciplines those lecturers taught. Given that women tended to fare badly when a gender neutral policy was used to recruit staff to decision-making positions, she proposed that the Government consider implementing the measures set out in general recommendation No. 36 (2017) to increase the representation of women decision makers in the education system.

5. She asked what steps would be taken to ensure that schools were safe for all learners, including lesbian, bisexual, transgender and intersex girls, and whether it was government policy to punish school bullies by sending them to police and military institutions for training. Lastly, she would appreciate further information on the use of corporal punishment in schools, the education of migrant and refugee children and disparities in access to special education in urban and rural areas.

6. **Ms. Manalo** said that she wished to know what measures were being taken to narrow the gender wage gap and deal with the great disparity between men and women in the labour force participation rate. A large number of women had never entered the world of work because they shouldered most household responsibilities. She wondered what was being done to encourage more women to earn wages outside the home and men to share housekeeping and child-rearing duties.

7. The Committee wished to know why foreigners married to Malaysian nationals were not permitted to work and whether the laws and policies that prevented them from doing so would be amended. Noting that labour legislation covered neither Malaysian nor foreign domestic workers, she asked what plans were in place to ensure that domestic workers were not subjected to discrimination, what remedies were available to domestic workers who experienced abuse and violence and what policy changes were being considered to ensure that migrant domestic workers enjoyed the same employment rights as other migrant workers. Given that migrant workers who moved to Malaysia from the Philippines and other countries were required to renounce their citizenship but were not automatically granted Malaysian citizenship, she asked what precautions were being taken to prevent such

workers from being rendered stateless while they awaited the conclusion of the naturalization process.

8. Lastly, she wished to know what was being done to increase the number of women on the boards of companies.

9. **Ms. Verges** said that she wished to know how the shortage of medical staff, particularly in rural areas was being addressed. Noting that a relatively small number of Muslim couples underwent premarital screening for HIV/AIDS, she asked why the rate was so low and how many couples of other faiths underwent such screening. In view of the fact that the number of women who underwent pap smear screening had risen only slightly between 2012 and 2014, she asked what measures were being taken to ensure that the maximum number of women could undergo such screening. The Committee welcomed the fact that sexual and reproductive health education was taught at the primary and secondary levels in schools but wished to know whether the contents of the curricula for that subject were the same at the different levels of the education system. Noting that, according to the State party report, 57.5 per cent of married women had access to contraception, she asked what percentage of female adolescents, irrespective of their marital status, had access to it and whether there were more up-to-date statistics on access to contraception. Lastly, she asked whether reliable data on the number of children born to teenage mothers were available.

10. **Ms. Abdul Rahim** (Malaysia) said that, although pregnant teenagers and teenage mothers were allowed to continue their education in State schools, many girls opted to drop out as they feared being socially ostracized. In order to remedy that situation, the Ministry of Education, in collaboration with a number of other ministries, had made every effort to provide pregnant teenagers and teenage mothers with access to education, health care and social support services. To that end, guidelines had been drawn up to ensure that pregnant girls would benefit from a safe and protective environment at school.

11. Reproductive health and social education was one of the main components of the health education curriculum taught from the preschool to the secondary levels. Children were taught about aspects of personal and reproductive health to equip them with the knowledge and values that they needed to make informed choices in their social and sexual relationships. At the preschool level, children learned about the anatomical and physiological differences between boys and girls and how to distinguish between appropriate and inappropriate touching. Children were given brochures on sexual and reproductive health and encouraged to discuss their contents with their parents or guardians. The contents of the curricula on sexual and reproductive health varied in accordance with the age of the children concerned.

12. The percentage of girls who opted to study technical subjects at the upper secondary level had increased slightly from 2013 to 2017. At the upper secondary level, more girls than boys had opted to study science, technology, engineering and mathematics between 2013 and 2017. When they had completed their lower secondary education, both boys and girls could take technical or vocational courses at school, enter an apprenticeship programme or study at a vocational college.

13. Although there were more male than female head teachers at both the primary and secondary levels, the number of female head teachers was increasing. Women were encouraged to enter more senior teaching positions through the Excellent Teacher Pathway, under which teachers were promoted on the basis of their expertise in their subject areas. The Pathway enabled teachers to play more senior roles without having to leave teaching to become administrators or managers. The majority of the teachers who had benefited from the Pathway were women.

14. In accordance with the Safe Schools Declaration and Security Council resolution 2225 (2015) on children and armed conflict, the Ministry of Education had developed the safe school concept and a guide to its implementation for schools, communities and families. Schools were required to ensure that children were physically safe at all times. Although human rights was not currently taught as a subject in its own right, the history curriculum included components on human rights and international law. The subject of global citizenship, which would include components on human rights, was due to be added

to the school curriculum. In order to overcome regional disparities in access to education, the Ministry of Education had drawn up the District Transformation Programme, which formed part of the Malaysia Education Blueprint for the period 2013–2025. Under the Programme, district offices were required to shift their focus from administration to the provision of direct support to schools to enable them to improve more quickly. Specialist coaches in school improvement had been introduced to support teachers in schools, particularly those that were underperforming, and school improvement partners had been introduced to support head teachers. Emphasis was placed on the lowest performing schools, districts and states to accelerate improvement and narrow the attainment gap between schools in different parts of the country.

15. **Ms. Jawor** (Malaysia) said that foreign nationals married to Malaysian citizens were eligible to work in the country if they completed certain procedures. The Government intended to step up its outreach initiatives to raise awareness of the procedures concerned and would also request chambers of commerce to lend their support to outreach programmes on employment rights.

16. The Ministry of Human Resources and the International Labour Organization had developed guidelines for employers of migrant domestic workers. The Ministry was currently drafting guidelines on the recruitment of foreign domestic workers from all relevant source countries. The Employment Act (1955) would be amended with a view to increasing the protection afforded to migrant domestic workers.

17. **Mr. Mohd Ramli** (Malaysia) said that foreign nationals who wished to become citizens of Malaysia had to have resided in the country for a number of years and have the intention to do so permanently.

18. **Ms. Ahmad** (Malaysia) said that the Government had worked with the private sector to increase the representation of women on corporate boards. On their own initiative, private-sector organizations were preparing women to fill vacancies on governing boards. A number of private companies operating in Malaysia had won awards for their efforts to retain women and make optimal use of their talents.

19. **Ms. Said** (Malaysia) said that, according to figures from 31 December 2016, there were 36,403 doctors, 12,812 assistant medical officers and 65,227 nurses working in the public health sector. Most of the country's primary health clinics — 72 per cent — were located in rural areas. Similarly, 63 per cent of the country's publicly employed health-care providers worked in rural areas. In addition, incentive programmes had been set up to encourage doctors and paramedical personnel to practice in such areas.

20. Premarital HIV screening for Muslim couples had been introduced in one of the country's states in 2001. It had since been made available in the country's other states. In 2016, 0.03 per cent of those who had been tested as part of the premarital screening initiative had been found to be HIV positive. They were offered counselling, and women were advised of the need to have early antenatal check-ups. Antiretroviral therapy was provided free of charge. More generally, an average of 1.6 million HIV screenings a year had been conducted over the past five years.

21. A number of campaigns to raise awareness of breast and cervical cancer had been conducted, in particular to ensure that women knew how to examine themselves. The Ministry of Health set targets, requiring its health-care personnel to screen 40 per cent of a given target population for cervical cancer. It also provided its personnel with the training they needed — for example, on how to perform satisfactory pap smears — and worked in close collaboration with other public agencies and non-governmental organizations. Information on the availability of contraception to adolescents would be provided in writing at a later date.

22. **Ms. Gbedemah** said that, as she had noted earlier, she wished to know how many child brides and pregnant girls eventually returned to finish their schooling after having dropped out. She had also wished to know whether the State party was considering using temporary special measures to ensure that more girls opted for technical fields of study. In addition, she would appreciate it if the delegation could indicate what efforts the State party was making to ensure safe school environments for lesbian, bisexual, transgender and

intersex students and whether the military and the police had been enlisted in efforts to combat bullying in the schools. Information on the prevalence of corporal punishment in Malaysia would also be welcome.

23. **Ms. Ahmad** (Malaysia) said that she would have to obtain the relevant official information on the number of girls who had returned to school after having dropped out. Students who bullied their classmates were not punished by having to undergo military or police training.

24. **Ms. Manalo** asked what plans the State party had made to ensure that women could inherit insurance payouts or pension payments where they were named as beneficiaries. She also wished to know what reforms were being undertaken to ensure that inheritance laws did not discriminate against women. Similarly, she wondered whether the State party had plans to amend the Distribution Act 1958 with a view to granting Muslims the same inheritance rights as non-Muslims. What plans had been made to make inheritance laws more favourable to women, who, in many cases, became mothers and provided for their families?

25. **Ms. Song** Wenyan said that she welcomed the efforts made by the State party to promote the advancement of rural women. The initiatives that had been carried out to bridge the digital divide between rural and urban areas were particularly commendable. She nonetheless wished to know what the percentage of persons living in poverty in Malaysia was and what percentage of those persons were women. She would welcome additional information about women's access to and ownership of land. It would be interesting to know, for instance, whether rural women had the same rights to own land as men and whether women could be awarded a fair share of a couple's land as part of a divorce settlement.

26. She asked what mechanisms had been put in place to ensure that women were represented in decision-making in rural areas, especially in connection with projects and programmes that related to their lives and work. In addition, she wondered whether the members of the FELCRA Dynamic Women's Group (WADIRA) were encouraged to help women in need, so that more women could advance together.

27. Emphasizing the mother's role in nurturing children, as was done by the Department of Orang Asli Development (JAKOA), reinforced stereotypes and traditional gender roles. The father's role should be emphasized, too.

28. The delegation should indicate whether the Government intended to intensify its efforts to protect refugee and asylum-seeking women, who were in a particularly vulnerable position in the State party. An indication of the steps the State party planned to take to ensure the rights of lesbian, bisexual, transgender and intersex persons were respected would also be welcome.

29. **Ms. Ahmad** (Malaysia) said that land laws had been amended to allow the wives of smallholders who had been resettled by the Federal Land Development Authority to inherit land.

30. **Mr. Bin Yeop Johari** (Malaysia) said that the right to own property should not be equated to the right to inherit. There were no provisions disallowing a woman from owning property. In inheritance matters, a woman's share was one half of the man's share, in line with the divine revelation contained in the fourth chapter of the Qur'an.

31. The differing inheritance rights of men and women were consistent with their differing financial responsibilities. Under sharia law, men were obligated to support their wives, their children and in some cases their relatives. They inherited more to enable them to fulfil that obligation. A man was not relieved of his responsibility to support his wife by virtue of her wealth or her access to personal income from work or any other source. Women were not similarly burdened. In addition, a woman's property from before her marriage was not transferred to her husband. Women kept their family name at birth and were not obliged to use their property or income to maintain the family. In the event of divorce, they could receive alimony from their ex-husbands. The varying inheritance rights of men and women, based as they were on the responsibilities that fell on them under sharia law, were thus not a form of discrimination against women.

32. Under a marriage contract, a man was obliged to protect and provide for his family, as Allah had given men more strength than women, whereas a woman owed allegiance to her husband and was required to protect herself in his absence. The differing rights and responsibilities of men and women was not based on the idea that men were superior to women. In specific cases, furthermore, women could inherit shares equal to or greater than those of men.

33. **Ms. Manalo** said that discrimination against women in inheritance matters was evidently ongoing in the State party. There had been positive developments in Muslim family law in such countries as Afghanistan, Kuwait, South Africa and Turkey. She wondered why the State party seemed to find it impossible to move away from Islamic rules on inheritance, especially when, as was often the case in modern Malaysia, women provided for and protected their families.

34. **Ms. Ahmad** (Malaysia) said that in Malaysia people living on less than 960 ringgit a month were considered to be living under the poverty line. Women accounted for around 60 per cent of those people.

35. **Ms. Zamani** (Malaysia) said that women accounted for some 11 per cent of the chairs or secretaries of the country's village development and security committees. Guidelines for the establishment and operations of those committees stated that women and young people should account for at least 30 per cent of committee members. Some 13 per cent of the participants in a recent village leadership course were women. It was hoped that more and more women would attend the course, which would also be offered in 2018.

36. The members of the WADIRA Group encouraged other women to participate in income-generating activities. Women were also encouraged to participate in economic life through other local programmes. Fathers, as a Committee member had noted, should indeed play a role in nurturing their children.

37. **Ms. Ahmad** (Malaysia) said that refugees and asylum seekers were entitled to protection on an equal footing with Malaysian nationals. Lesbian, bisexual, transgender and intersex persons were also entitled to equal protection.

38. **Ms. Schulz**, commending the State party's efforts to welcome refugees and asylum seekers, said that she nonetheless wondered whether it was considering becoming a party to the Convention relating to the Status of Refugees and adopting a national policy on refugees. In the same connection, she wondered how the authorities ensured that the principle of non-refoulement was observed and that asylum seekers had full access to asylum procedures.

39. **Ms. Ahmad** (Malaysia) said that the subject of how to deal with the arrival of refugees had been a topic of public debate in Malaysia. The Government was working closely with the Office of the United Nations High Commissioner for Refugees (UNHCR) on refugee policy, and discussions on that topic were ongoing.

40. **Mr. Mohamed Zin** (Malaysia) said that, although Malaysia was not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, a UNHCR office had been maintained in Kuala Lumpur since 1975. The country had provided assistance to Vietnamese boat people in the 1970s and had later welcomed other groups, including Bosnians in the 1990s. There were currently over 150,000 persons of concern to UNHCR from 60 countries in Malaysia, and they had benefited from various ad hoc programmes. The Government was currently working with the UNHCR office to develop more systematic assistance programmes for them.

41. **Mr. Bin Zainal Abidin** (Malaysia) said that the principle of non-refoulement was upheld by the provisions of the Extradition Act and the Mutual Assistance in Criminal Matters Act. If it was established that returning a person to another State would result in persecution, the person was not returned to that State.

42. **Ms. Haidar** said that she had the feeling that the State party had regressed in its implementation of the Convention in respect of many questions, including polygamy, child marriage, citizenship, unilateral religious conversion and freedom of religion and belief.

43. The concluding observations issued by the Committee in 2006 had called for the authorities to address problems stemming from the existence of multiple versions of sharia law, but they had not done so. The Committee had also called for the State party, in implementing its dual legal system, to give precedence to those provisions of law that afforded women greater rights, but the reform of Islamic law had not done that at all. The State party was apparently maintaining its reservation to article 16 (1) (a) (c) (f) and (g), and, despite its lifting of its reservation to article 16 (2), there was no indication of progress in that field in practical terms. Such a situation cast doubt on the authorities' political will to implement the Convention.

44. The law governing polygamous marriage no longer took into account the effect that such marriages would have on the standard of living of an existing wife or wives. It no longer stipulated that polygamous marriages could be entered into for just and necessary reasons only, requiring instead that the marriage should be deemed either just or necessary and leaving it for a judge to decide whether such criteria were met. Failure to register marriages was punishable by no more than a small fine, which had no dissuasive effect. Such provisions reflected a lack of commitment to the progressive changes that the Committee had called for in 2006.

45. Because of the country's multi-ethnic and multireligious composition, the lack of progress could cause tension between communities, as some groups had to live under more stringent rules than others. Did the authorities want to engage in an inclusive and comprehensive dialogue with a view to reforming the law so that it would reflect the basic principles of justice and equality that were fundamental to Islam? It was difficult to reconcile the State party's sponsorship of resolutions advocating moderation, for instance before the General Assembly, with policies prohibiting free choice of religion and belief, as the conversion of Muslims to other faiths was not allowed in Malaysia, to cite an example.

46. In practice, child marriage reportedly continued to be practised in both the Muslim and non-Muslim communities. The delegation might describe what had been done to enforce prohibitions against child marriage and provide statistics on changes in practices since 2006. The Committee welcomed the recent court judgment declaring that the consent of both parents was required for the conversion of children to Islam, but it was concerned about the possibility that its primacy over sharia law had been called into question. It was also concerned about distinctions between the registration of Muslims and non-Muslims and about the situation of Malaysian mothers who gave birth to their children in other countries. They reportedly still faced more complicated procedures than fathers for the registration of their children's Malaysian nationality.

47. **Mr. Bin Yeop Johari** (Malaysia) said that questions relating to polygamous marriage, child marriage and marital property were all regulated by Islamic family law, which fell under the purview of the states. The federal authorities were not permitted to encroach upon states' rights once the states adopted such laws. Nonetheless, the Government of Malaysia and the states had taken a number of progressive measures since 2006, for example by putting in place safeguards to ensure that the implementation of sharia law would not be prejudicial to women. The Government had in 2006 established four special working committees under the purview of the Department of Islamic Development to study and review various sharia laws, including those related to criminal, court and civil procedures. Once the special committees' work was done, their findings would be issued for consideration by the national and state authorities.

48. **Ms. Ahmad** (Malaysia) said that statistics on child marriage would be submitted later, in writing.

49. **Ms. Haidar** said that the position of the State party apparently reflected a failure to respect its international treaty obligations with sufficient seriousness. The Committee had raised the points under discussion in 2006, and the delegation was now claiming that the special working committees, which had been in existence for 12 years, would produce results sometime in the future. Would it take another 12 years for action to be taken? Muslim countries, including Saudi Arabia, had recently repealed laws and regulations that had previously been justified under the label of sharia, and some, such as Morocco, Tunisia and Indonesia, had carried out legal reforms and addressed the application of Islamic sharia

in an effective manner. The State party should consider initiating a dialogue with civil society and engage those committed to positive change to find a progressive solution to the implementation of Islamic law in Malaysia.

50. **Ms. Halperin-Kaddari**, noting that an increasing number of women had the knowledge level required to be appointed as judges, said that she would like to know whether any women had been appointed as judges in the sharia courts and, if not, whether there were plans to do so in the future. The Committee had noted in general recommendation No. 29 (2013) that the maintenance of multiple legal systems was discriminatory against women, unless there was the possibility of choosing the application or observance of particular laws. Was it true that, in Malaysia, a person's religion at birth determined the legal system to which he or she was subject and that there was no possibility of opting out of sharia law, for example? It was not clear whether, under civil law, Muslim children born out of wedlock would now be allowed to be registered with the National Registration Department under their father's name as a matter of course or whether the relevant fatwa prohibiting such children from bearing their father's name would prevail. The Committee would like to know more about the matrimonial property regime applicable to non-Muslims. Were wives entitled to half the property accumulated during marriage, and was mediation used in cases of divorce? If so, what safeguards were in place to ensure that women who had suffered domestic abuse were not compelled to enter into mediation with their abusive spouses?

51. **Ms. Gbedemah** said that she would like further information on the policy of sending school bullies for training to the police or the armed forces as part of the National Blue Ocean Strategy. Since 2013, over 5,000 students had been involved in such activities. The Committee would be interested to find out what offences they had been accused of, how many of the students were girls and how they were subsequently integrated into schools. It was a source of concern that bullies were sent for military training. In her view, that was likely to hone their skills for still worse behaviour.

52. **Ms. Schulz** said that, in its general recommendation No. 33 (2015), the Committee had recognized that plural legal systems existed, but it had also stated that States parties must not hide behind their existence to allow violations of the Convention to take place. Notwithstanding any reservations filed by Malaysia, the Committee considered that States parties were responsible, and it held them accountable for implementation of the Convention, irrespective of their domestic legal framework.

53. **Ms. Manalo** said that she was very saddened to see that Malaysia had not taken steps to implement the Convention and that there had been so little progress and so much regression in the 12 years since its delegation had last appeared before the Committee, under her chairmanship, in 2006. The situation had already been bad then, but it had become even worse. The delegation's invocation of sharia law to justify the State party's non-compliance with its treaty obligations, in addition to being contrary to the 1969 Vienna Convention on the Law of Treaties, did nothing to secure the rights of women in Malaysia. The State party had obviously failed to implement provisions to ensure women's rights across the board: it had neither incorporated appropriate provisions in its Constitution, laws and legal system, nor had it established institutions to protect women against discrimination, nor had it eliminated discriminatory practices.

54. **Ms. Haidar** said that, notwithstanding past delays and failures, there was still a chance to do something constructive. The State party must show a political will to comply with its international obligations. In that vein, it would be most helpful to the Committee if it explicitly stated its commitment to change things for the better and set out concrete time frames for action. Timelines could be gradual, but a dialogue with all the state authorities and with civil society organizations must begin right away.

55. **Ms. Rana** said that she supported Ms. Haidar's remarks. The Committee's major concern centred around the State party's interpretation of how to apply sharia law. It looked forward to receiving a written response expressing the strong political will of the State party to meet its international obligations.

56. **Ms. Gabr** said that, as a woman from a Muslim country, she considered that the problem did not lie in sharia law itself but in a specific interpretation of the law. She

expressed dismay at the affirmation that sharia law was the cause of situations that degraded women. The State party, as a member of the Organization of Islamic Cooperation, should consider how other Muslim countries interpreted sharia law in ways more conducive to observance of women's rights.

57. **Ms. Ahmad** said that information on the treatment of bullies would be forwarded to the Committee as soon as possible. She assured the Committee that it was neither the intention nor the will of the authorities to regress, and that they would continue to have contacts with agencies and non-governmental organizations to move ahead in the implementation of women's rights. The delegation, upon returning to Kuala Lumpur, would seek to secure an expression of commitment from the relevant government agencies and ministries and would respond in writing to as many of the Committee's queries as possible within a few days.

The meeting rose at 4.50 p.m.